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January 9, 2020

BY ECF

Honorable Paul A. Engelmayer
United States District Court
Southern District of New York
40 Foley Square
New York, New York 10007

Re: Anthony House v. City of New York, et al.
18-CV-6693 (PAE)

Your Honor:

I am a Senior Counsel in the Office of James E. Johnson, Corporation Counsel of the City of New York, the attorney assigned to represent defendants City of New York and the Department of Correction ("City Defendants") in the above-referenced matter. City Defendants write to respectfully request permission to file their Memorandum of Law in Support of Their Motion for Summary Judgment, Local Civil Rule 56.1 Statement of Material Facts, and the Declaration of Valerie E. Smith and corresponding exhibits under seal. Redacted versions of these documents will be filed on ECF. In accordance with Your Honor's Individual Rules, the unredacted version of the document will be provided with the courtesy copy of the motion papers which will be sent to the Court. Additionally, City Defendants will serve plaintiff and co-defendant Seepaul with unredacted copies of all documents.

The presumption of public access to the redacted portions of the brief is outweighed by "the privacy interests of those resisting disclosure." *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 119 (2d Cir 2006). The documents City defendants seek to file under seal incorporate information that has been deemed Confidential pursuant to the Protective Order endorsed by the Court on October 23, 2019. *See* ECF No. 64. In relevant part, the Protective Order states that "'Confidential Materials' shall mean DOC personnel and disciplinary-related records and information related to Defendants Seepaul," and "any surveillance video footage taken in a DOC facility." The Protective Order further states that:

If any paper which incorporates and Confidential Materials or reveals the contents thereof is filed in this Court, those portions of the papers shall be filed under seal, in accordance with the rules of the

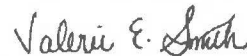
District Court in which the Action is filed and/or the Individual Rules of the judge to whom the papers are directed.

Additionally, City defendants also seek to redact the full names of non-party inmates from deposition testimony and DOC documents. Specifically, City defendants will refer to the non-party inmates by their initials for their safety, security, and in order to protect their privacy rights. City defendants respectfully submit that the *Lugosch* standard is met here, where countervailing considerations of the defendant Seepaul and non-party inmate's privacy and reputational interests are sufficient to overcome the weak presumption of access that attaches to these records. *See Lugosch*, 435 F.3d at 121 (countervailing factors include, among others, the privacy interests of those resisting disclosure); *see also* ECF No. 57 dated, October 17, 2019 (granting the plaintiffs' request to file disciplinary related documents under seal in the instant case.); ECF No. 71 dated, December 11, 2019 (granting the parties request to file Joint Statement of Facts underseal in the instant case).

As such, City Defendants respectfully requests that the Court grant permission to file the above-mentioned documents under seal. Furthermore, in the event the Court grants the instant request, unredacted copies of these documents with the proposed redactions highlighted will be sent via e-mail to the Court for review. This request is made with the consent of all parties.

Thank you for consideration of the matter herein.

Respectfully submitted,



Valerie E. Smith
Senior Counsel
Special Federal Litigation Division

1/10/20

The City Defendants are directed to email the Court unredacted copies of the above-mentioned documents with the proposed redactions highlighted for review. The Court will rule on the proposed redactions and the request to seal following its review of the documents.

SO ORDERED.



PAUL A. ENGELMAYER
United States District Judge